

§ 555.161

record; and, if applicable, certification from a Federal explosives licensee or permittee or other employer stating that the applicant is employed by the employer and must possess explosive materials for purposes of employment. These certifications must be submitted in English.

(2) Any record or document of a court or other government entity or official required by paragraph (f)(1) of this section must be certified by the court or other government entity or official as a true copy.

(Approved by the Office of Management and Budget under control number 1140-0076)

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981. Redesignated by T.D. ATF-487, 68 FR 3748, Jan. 24, 2003. ATF No. 1, 68 FR 13792, Mar. 20, 2003]

Subpart I—Unlawful Acts, Penalties, Seizures and Forfeitures

§ 555.161 Engaging in business without a license.

Any person engaging in the business of importing, manufacturing, or dealing in explosive materials without a license issued under the Act, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

§ 555.162 False statement or representation.

Any person who knowingly withholds information or makes any false or fictitious oral or written statement or furnishes or exhibits any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the Act, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

§ 555.163 False entry in record.

Any licensed importer, licensed manufacturer, licensed dealer, or permittee who knowingly makes any false entry in any record required to be kept under subpart G of this part, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-400, 63 FR 45003, Aug. 24, 1998]

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§ 555.164 Unlawful storage.

Any person who stores any explosive material in a manner not in conformity with this part, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 555.165 Failure to report theft or loss.

(a) Any person who has knowledge of the theft or loss of any explosive materials from his stock and fails to report the theft or loss within 24 hours of discovery in accordance with § 555.30, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) On and after January 24, 2003, any licensee or permittee who fails to report a theft of explosive materials in accordance with § 555.30 will be fined under title 18 U.S.C., imprisoned not more than 5 years, or both.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by ATF No. 1, 68 FR 13793, Mar. 20, 2003]

§ 555.166 Seizure or forfeiture.

Any explosive materials involved or used or intended to be used in any violation of the Act or of this part or in any violation of any criminal law of the United States are subject to seizure and forfeiture, and all provisions of title 26, U.S.C. relating to the seizure, forfeiture, and disposition of firearms, as defined in 26 U.S.C. 5845(a), will, so far as applicable, extend to seizures and forfeitures under the Act. (See § 72.27 of this title for regulations on summary destruction of explosive materials which are impracticable or unsafe to remove to a place of storage.)

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-363, 60 FR 17449, Apr. 6, 1995]

Subpart J—Marking of Plastic Explosives

§ 555.180 Prohibitions relating to unmarked plastic explosives.

(a) No person shall manufacture any plastic explosive that does not contain a detection agent.

(b) No person shall import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection

agent. This paragraph does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to April 24, 1996, by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States, *i.e.*, not later than June 21, 2013.

(c) No person shall ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent. This paragraph does not apply to:

(1) The shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to April 24, 1996, by any person during the period beginning on that date and ending on April 24, 1999; or

(2) The shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to April 24, 1996, by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States, *i.e.*, not later than June 21, 2013.

(d) When used in this subpart, terms are defined as follows:

(1) *Convention on the Marking of Plastic Explosives* means the Convention on the Marking of Plastic Explosives for the Purposes of Detection, Done at Montreal on 1 March 1991.

(2) "Date of entry into force" of the Convention on the Marking of Plastic Explosives means that date on which the Convention enters into force with respect to the U.S. in accordance with the provisions of Article XIII of the Convention on the Marking of Plastic

Explosives. The Convention entered into force on June 21, 1998.

(3) *Detection agent* means any one of the substances specified in this paragraph when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

(i) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

(ii) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

(iii) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

(iv) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

(v) Any other substance in the concentration specified by the Director, after consultation with the Secretary of State and Secretary of Defense, that has been added to the table in Part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

(4) *Plastic explosive* means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10^{-4} Pa at a temperature of 25 °C, is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature. *High explosives*, as defined in § 555.202(a), are explosive materials which can be caused to detonate by means of a blasting cap when unconfined.

[T.D. ATF-387, 62 FR 8376, Feb. 25, 1997, as amended by T.D. ATF-419, 64 FR 55628, Oct. 14, 1999]

§ 555.181 Reporting of plastic explosives.

All persons, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on April 24, 1996,